



**Billing Code: 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**[RTID 0648-XA350]**

**Notice of Availability of the Portland Harbor Draft Supplemental Restoration Plan and Environmental Assessment**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** The Portland Harbor Natural Resource Trustee Council (Trustee Council) has prepared a Draft Supplemental Restoration Plan and Environmental Assessment (Draft SRP/EA). The Draft SRP/EA describes the Trustee Council's preferred restoration alternative to restore natural resources and ecological services injured or lost as a result of releases of hazardous substances and discharges of oil within the Portland Harbor assessment area (applicable to the current phase of restoration, but subject to revision in the future). The Federal Trustees also considered potential environmental impacts of the considered alternatives in the context of the National Environmental Policy Act (NEPA). The purpose of this notice is to inform the public of the availability of the Draft SRP/EA and to seek public comments on the document.

**DATES:** Submit comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** *Obtaining Documents:* You may download the Draft SRP/EA at:

*[https://www.fws.gov/portlandharbor/sites/default/files/documents/2020-07\\_DraftSRP-EA\\_forRelease.pdf](https://www.fws.gov/portlandharbor/sites/default/files/documents/2020-07_DraftSRP-EA_forRelease.pdf)*. Alternatively, you may make arrangements to view the document at the following location (subject to any Federal, state, or local public health restrictions associated with the COVID-19 pandemic): Parametrix, 700 NE Multnomah Street, Suite 1000, Portland, OR 97232.

*Submitting Comments:* You may submit comments on the Draft SRP/EA by one of the following methods:

- *Via the Web:* Email comments to *[portlandharbor.nrda@gmail.com](mailto:portlandharbor.nrda@gmail.com)* using the comment table available online at: *<https://www.fws.gov/portlandharbor/news/draft-supplemental-restoration-plan-available-comment>*.

- *Via U.S. Mail:* Lauren Senkyr, NOAA Restoration Center (C/O Parametrix), 700 NE Multnomah Street, Suite. 1000, Portland, OR 97232. Please note that mailed comments must be postmarked on or before the comment deadline of [*insert date 30 days after date of publication in the FEDERAL REGISTER*] to be considered.

**FOR FURTHER INFORMATION CONTACT:** National Oceanic and Atmospheric Administration – Lauren Senkyr, NOAA Restoration Center, 503-231-2110, *[lauren.senkyr@noaa.gov](mailto:lauren.senkyr@noaa.gov)*.

## **SUPPLEMENTARY INFORMATION:**

### **Introduction**

Since January 2007, the Trustee Council has been conducting a Natural Resource Damage Assessment (NRDA) within the Portland Harbor Assessment Area (PHAA or Portland Harbor). Under the NRDA process, the Trustee Council’s overall goal is to restore, rehabilitate, replace, or acquire the equivalent of natural resources and their

services that have been injured by contamination within the PHAA and to compensate the public for those losses. One critical part of this process is identifying suitable activities to restore the injured natural resources. In May 2017, the Trustee Council published its Final Portland Harbor Programmatic Environmental Impact Statement and Restoration Plan (Programmatic Restoration Plan) that provided an overall restoration approach: integrated habitat restoration. The Programmatic Restoration Plan also provided a comprehensive framework for implementing integrated habitat restoration and a broad analysis of the environmental impacts. The Trustee Council has now developed a Draft SRP/EA that uses the criteria identified in the Programmatic Restoration Plan to evaluate and select one of three alternatives to implement restoration actions during the Trustee Council's first phase of restoration. The Trustee Council may revisit its preferred restoration alternatives in future phases of restoration as the ongoing NRDA process continues. The Draft SRP/EA also evaluates potential environmental impacts from the alternatives under the NEPA.

The Trustee Council is conducting the NRDA for Portland Harbor under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Clean Water Act (CWA), and the Oil Pollution Act (OPA). Pursuant to CERCLA, CWA, and OPA, natural resource trustees act on behalf of the public to assess natural resource injuries and losses and to determine the actions required to compensate the public for those injuries and losses. CERCLA, CWA, and OPA further instruct the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of

injury until the time of restoration to baseline (the resource quality and conditions that would exist if the releases of hazardous substances and discharges of oil had not occurred) is complete.

The Portland Harbor Trustee Council members are as follows:

- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of the Interior (DOI);
- State of Oregon, acting through the Oregon Department of Fish and Wildlife;
- Confederated Tribes of the Grand Ronde Community of Oregon;
- Confederated Tribes of Siletz Indians;
- Confederated Tribes of the Umatilla Indian Reservation;
- Confederated Tribes of the Warm Springs Reservation of Oregon; and
- Nez Perce Tribe.

This restoration planning activity is proceeding in accordance with the Programmatic Restoration Plan. Information on the site background, phased approach to the NRDA, restoration concepts considered in the Draft SRP/EA, and the criteria against which project ideas are evaluated can be viewed in the Programmatic Restoration Plan ([https://www.fws.gov/portlandharbor/sites/default/files/2018-12/201706\\_FINAL\\_PEIS.pdf](https://www.fws.gov/portlandharbor/sites/default/files/2018-12/201706_FINAL_PEIS.pdf)) and its appendices ([https://www.fws.gov/portlandharbor/sites/default/files/2018-12/201706\\_FINAL\\_PEIS\\_Appendix.pdf](https://www.fws.gov/portlandharbor/sites/default/files/2018-12/201706_FINAL_PEIS_Appendix.pdf)).

## **Site Background**

Since the 1900s, industrial facilities along the Willamette River at Portland Harbor have released an array of hazardous substances and discharged oil into the river system. In December 2000, the Environmental Protection Agency (EPA) listed Portland Harbor on the National Priorities List due to elevated concentrations of contaminants. Two months later, the Portland Harbor Natural Resource Trustees entered into an intergovernmental memorandum of understanding with the EPA and the Oregon Department of Environmental Quality (DEQ) to coordinate efforts at the Portland Harbor Superfund Site. In 2002, the Natural Resource Trustees established the Trustee Council. The restoration activities discussed in the Trustee Council's 2017 Programmatic Restoration Plan and the current Draft SRP/EA are associated with the Trustee Council's ongoing NRDA.

#### **Overview of the Draft SRP/EA**

In the Programmatic Restoration Plan, the Trustee Council described the following three ways that a potentially responsible party (PRP) could provide restoration to resolve its liability for damages at Portland Harbor:

- Trustee-Led Project Alternative – The Trustee Council would use settlement funds to design and construct a restoration project;
- Partnering Project Alternative – The Trustee Council would provide settlement funds to a third-party entity to develop and implement a restoration project; and
- Restoration Bank Credit Alternative – The Trustee Council or a PRP would purchase ecological benefits, in the form of credits, from a restoration bank.

At the time the Programmatic Restoration Plan was published, it would have been premature for the Trustee Council to evaluate specific actions under these three alternatives. The Trustee Council anticipates that it will soon be in a position to begin its first phase of restoration implementation. In January 2020, the Trustee Council published a Request for Proposals (RFP) for ecological restoration projects that outlined the eligibility and evaluation criteria that would be used to select specific restoration actions that could be implemented in the first phase of restoration implementation. Now, having received responses to the RFP, and with the prospect of potential natural resource damages settlements in the near future, the Trustee Council is preparing to implement restoration actions.

After evaluating the projects submitted in response to the RFP, the Trustee Council has identified the Restoration Bank Credit Alternative as the Preferred Alternative. Five restoration bank projects were determined to be eligible under the Preferred Alternative.

### **Next Steps**

The public is encouraged to review and comment on the Draft SRP/EA. After the close of the public comment period, the Trustee Council will consider and address the comments received before issuing a Final SRP/EA. A summary of comments received and the Trustee Council's responses will be included in the final document.

### **Invitation to Comment**

The Trustee Council seeks public review and comment on the Draft SRP/EA (see **ADDRESSES** above). Before including your address, telephone number, email address, or other personally identifiable information in your comment, please be aware that your

entire comment, including your personally identifiable information, will become part of the public record.

The Trustee Council will conduct a virtual public meeting on Tuesday, September 1, 2020 beginning at 6 pm Pacific Time to provide information and answer questions.

Information on how to attend the virtual meeting is available at

*<https://www.fws.gov/portlandharbor/news/draft-supplemental-restoration-plan-available-comment>.*

### **Administrative Record**

The documents comprising the Administrative Record for the Draft SRP/EA can be viewed electronically at *<https://www.diver.orr.noaa.gov/web/guest/portland-harbor-admin-record>*.

### **Authority**

The authority for this action is the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 *et seq.*) and its implementing Natural Resource Damage Assessment Regulations found at 43 CFR part 11, the Clean Water Act (33 U.S.C. 1251 *et seq.*), the Oil Pollution Act (33 U.S.C. 2701 *et seq.*), and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

Dated: August 7, 2020.

**Carrie Selberg,**

*Director, Office of Habitat Conservation,*

*National Marine Fisheries Service.*